



MEETING MINUTES

MILPITAS PLANNING COMMISSION

April 24, 2019 7:00 PM

CITY HALL COUNCIL CHAMBERS
455 E. CALAVERAS BLVD., MILPITAS, CA 95035

- I. CALL MEETING TO ORDER** **Chair Mandal** called the meeting to order at 7:00 P.M.
- II. CITY CLERK, Mary Lavelle swears in newly appointed Planning Commissioner, Steve Tao**
- III. ROLL CALL** **Present:** Chair Mandal, Vice Chair Ciardella, Commissioner Morris, Alcorn, Chuan, Chua, Tao
- Absent:** --
- Staff:** Ned Thomas, Jessica Garner, Ashley Zambrano, Lillian Hua, Krishna Kumar, Elizabeth Medina, Albert Zamora, Alex Andrade, Steve Erickson, Woojae Kim, Ashwini Kantak
- IV. PLEDGE OF ALLEGIANCE** **Commissioner Alcorn** led the Pledge of Allegiance.
- V. CONFLICT OF INTEREST DECLARATION** **City Attorney Ashley Zambrano** asked if any member of the Commission had any personal or financial conflict of interest related to any of the items on the agenda.
- There were no reported conflicts.
- VI. APPROVAL OF AGENDA** **Chair Mandal** asked if staff or Commissioners had changes to the agenda and there were none.
- Due to attendance of interested parties for Agenda Item IX-2, Planning Director asked Commission if they would entertain moving IX-2 to Item IX-1.
- Motion** to approve the April 24, 2019 agenda as amended.
- Motion/Second: Commissioner Chuan/Commissioner Alcorn
- AYES: 7
- NOES: 0
- ABSTAIN: 0

VII. ANNOUNCEMENTS

Planning Director Ned Thomas provided departmental updates to the commission regarding:

- Ashley Zambrano, City Attorney from BBK sitting in Heather Lee's seat this evening
- Commissioners' Luncheon this Saturday, 4/27 at Community Center
- In observance of Administrative Professional's Day, Mr. Thomas recognizes Planning Commission Secretary, Elizabeth Medina
- City Council Special Meeting on Tuesday, 4/30 on Master Fee Schedule and prelude to study session for General Plan Update
- City Council meeting on Tuesday, 5/21 about General Plan Update. Consultant will give Planning Commissioners update on GPU.
- ADU ordinance was approved by Council at 4/16 City Council meeting.

Chair Mandal also recognized Secretary, Elizabeth Medina.

VIII. PUBLIC FORUM

Chair Mandal invited members of the audience to address the commission.

Frank DeSmidt of Milpitas Rotary Club invited everyone to Masquerade Party and fundraiser on 4/27 for the girls and boys scouts.

IX. APPROVAL OF MEETING MINUTES

Chair Mandal called for approval of the March 27, 2019 meeting minutes of the Planning Commission.

Commissioner Chuan noted that he and Commissioner Alcorn were not included in attendance of the March 27th meeting.

Motion to approve Planning Commission meeting minutes as amended.

Motion/Second: Commissioner Chuan/Commissioner Chua

AYES: 6

NOES: 0

ABSTAIN: 1 (Tao)

X. PUBLIC HEARING

IX-2 SIKH TEMPLE – 362 S. Milpitas Blvd. – P-UP18-0006: An application for a Conditional Use Permit to allow a Place of Assembly in an Industrial Zone. The project is categorically exempt from further CEQA review pursuant to Section 15301 (Existing Facilities) and, as a separate and independent basis, Section 15183 (Projects Consist with a Community Plan or Zoning) of the CEQA Guidelines.

Project Planner Krishna Kumar showed a presentation and discussed the project.

Commissioner Morris asked if the modifications will be made within the existing structure. Ms. Kumar noted that the Applicant will only be modifying the interior, not the exterior. Ms. Morris stated that her only concern would be with

the fire code but will wait to hear from the City Fire personnel.

Commissioner Alcorn asked about the traffic impact on the days of gathering and hours of operation. Ms. Kumar noted that the application/plans were reviewed and approved by the Land Development department. Alcorn asked if the reviews from Land Development noted any concern about traffic impact. Ms. Kumar said there were no comments in regards to that. Alcorn stated that his only concern with this project would be the traffic. Ms. Kumar also said the temple services are mainly on weekends with some walkins on weekdays.

Commissioner Chuan referenced the 70dBA noise levels mentioned in the Staff report and wanted to know what would be the sources of the noise. Ms. Kumar said based on the noise study analysis majority of the sound would come from traffic from Calaveras Boulevard and the TDK facility that is to east of the property; noise mitigation not required since it is within range.

Commissioner Chua disclosed to City Attorney that she visited the site twice; a couple months ago for a panel on hate crimes and on another occasion briefly met with two members of the the temple to discuss this project. Ms. Chua stated it would not impact her decision. Ms. Chua asked Ms. Kumar to clarify CUP information within the Staff report.

Commissioner Tao referenced page one of the plans where it notes that Sikh Temple but public records has 374 S Milpitas LLC as owner; wanted to know if there was a link between the two entities. Ms. Kumar noted that 374 S Milpitas LLC is the owner and Sihk Temple is leasing it; and, owner has signed off on the CUP application. Referencing the Special Developments/Performance Standards slide of Staff Report – noise study, Mr. Tao wanted to know how would Applicant demonstrate that their noise level is within range while in the space. Ms. Kumar clarified, though confusing, that the noise study is not of the Applicant's use but that of surrounding properties not to go over 70dBA; it is apart of the CUP process to obtain this study. Mr. Tao asked about the stall count in restrooms. Ms. Kumar noted that this item is reviewed at the Building Permit level; when forwarding the plans to Building Department for review, they did not have comments regarding that. Mr. Tao questioned that maximum occupancy of 225 in the main congregation areas and if that will remain the same in the conditions. Ms. Kumar noted that Max Occupancy is determined at the Building Permit phase by Building and Fire. Mr. Tao asked if the Max Occupancy affects the parking calculation. Ms. Kumar said that the parking analysis table is based on number of seats and square footage. Mr. Tao asked if neighboring suites utilize hazardous materials. Ms. Kumar said that Suite 374 has some materials but are not considered hazmat. Mr. Tao inquired about adequate timing and distance should there be a shelter in place or evacuation for an assembled crowd. Ms. Kumar stated that Albert Zamora, Deputy Chief Fire Marshall is present to answer questions regarding this matter. Mr. Zamora spoke at the podium addressing Mr. Tao's questions regarding hazardous materials/gases; noting there are three facilities within 1,000 that that have toxic gases that do concern the Fire Department; as a condition of approval, the Fire Department ask that a Risk Assessment be performed to evaluate.

Vice Chair Ciardella also shared his concerns about chemicals from neighboring facilities with hazardous materials. Mr. Zamora shared information about the neighboring facilities and toxic materials used within 1,000 feet of project site; and, stated that Risk Assessments and mitigated measure are done in efforts to

keep the congregations safe.

Chair Mandal asked if it was noticed for 1,000 feet and if there was any public comment. Ms. Kumar said that the project was noticed for 1,000 feet from subject site and there were no public comment. Mr. Mandal asked when is the most busiest day. Ms. Kumar said their main day of worship services is on Saturday with hours of operation from 9am-2pm. Mr. Mandal shared concerns about lighting in the evening. Ms. Kumar that the Planning Commission can add a condition of approval for lighting if they would like.

Commissioner Chua asked if praying at facility open 24 hours. Mr. Kumar said the hours of operation for the operation is 9am-2pm Monday-Sunday. Ms. Chua asked about the current temple's security program. Ms. Kumar added that a part of the condition of approval by PD is that video surveillance is included in resolution.

Commissioner Chuan asked if there is there enough of exits for number of people who will attend service. Mr. Zamora shared the formula of how many exits vs. number of people. Mr. Chuan asked what are the chemicals of most concern. Mr. Zamora said the toxic gases.

Commissioner Alcorn asked clarifying questions in regards to the 70dBA noise level relating to Applicant. Ms. Krishna shared that everyone in the area is to stay under the 70dBA noise level and applicant does not propose to have a sound system on outside of property. Mr. Alcorn wanted to make sure that everyone in the industrial zone are held to the same noise standards. Mr. Alcorn also asked if the risk assessment be done. Mr. Zamora stated no. Mr. Alcorn asked Mr. Zamora if he would approve permits for this project without a risk assessment being done. Mr. Zamora said he would not approve without risk assessment being completed, it needs to be done for the sake of public safety. Mr. Alcorn said he fully supports this project but does not feel comfortable approving until a risk assessment is done.

Planning Director Ned Thomas clarified that the General Plan and Zoning Ordinance, in 2017 Council approved for non-industrial use in industrial area. He also clarified the noise levels details in the industrial areas and phases of safety assessments.

Commissioner Chua reminded follow commissioners that the City has maintenance and storage standards for hazardous materials; mentioning this to make sure residents do not have the impression that we have hazardous materials that are ready to explode or where the resident's safety is compromised. Mr. Zamora seconded her comment and shared that there are heavy regulations and provisions in the Fire code in regards to hazardous materials.

Commissioner Morris asked why risk assessment included in the materials presented tonight. Ms. Kumar and Mr. Zamora shared that the applicant asked the fire marshall if the risk assessment can be done after it is approved by Planning Commission, as risk assessments are must be completed prior to occupancy permit stage. Ms. Morris stated that she does not feel comfortable approving this project until reviewing the risk assessment report.

Vice Chair Ciardella would like for Chief Zamora to do a presentation to the Planning Commission about hazardous materials.

Commissioner Chuan asked what other facilities have been compared to in the area

that were issued a conditional use permit for the same use. Ms. Kumar said the Al-Hilaah Mosque and Community Center was approved in 2017; as well as Bingo Charity located in front of Headway Technology and 691 S. Milpitas. Mr. Chuan asked when was the risk assessment done for those projects. Ms. Kumar that Al-Hilaah Mosque and Bingo Charity were done after their Planning Commission meetings; 691 S. Milpitas was not necessary as it is not that close to hazardous materials.

Commissioner Tao asked about the Annual celebration hosted by Chamber of Commerce that area and if it will still happen in following years. Ms. Kumar said she is unaware. Mr. Tao asked if trash enclosures standards would be need to updated for this application of use. Ms. Kumar said that is addressed at building permit phase. Mr. Tao asked about parking space standards if an enclosure would need updated. Ms. Kumar stated that at the moment, they have (20) more parking spaces than are required; parking requirements will be based on the square footage of the site, not the max occupancy.

Chair Mandal asked once risk assessment is done are there preventive and detective measures that are put in place. Mr. Zamora said the risk assessment is to evaluate what kind of chemical detection system is needed to be installed and the City would need to mitigate should there be a release of a toxic gas.

Chair Mandal invited applicant to podium for questions.

Commissioner Chua asked if the praying section is open 24 hours. Mr. Shah said that is not open 24 hours, services will be from 9am-2pm. Ms. Chua asked what is their organization doing for security and lighting at their current temple. Mr. Shah said there are 15-16 cameras installed, have gotten recommendations from FBI and Homeland Security and is working with PD to get training should a terrorist attack occur.

Commissioner Tao asked if there will be other activities outside the proposed hours of operation, other than those prescribed in application. Mr. Shah said that the Sikh Temple cooks food, feed homeless at shelter, collect money to purchase blankets within the hours of operation. Mr. Tao asked where will cooking be. Mr. Shah food is brought cooked to the site.

Commissioner Morris thanked applicant for bringing good to the community and asked if they are willing to do hazardous assessment first. Mr. Shah said they do understand and care for the commissioners concerns but as Ms. Kumar noted, that risk assessment will be taken care of after CUP approval. Being that safety is first, Ms. Morris shared that she doesn't feel comfortable moving forward without vital information from risk assessment. Mr. Sandhu shared that, as per the Fire Department and Building, the risk assessment will be done before occupancy.

Commissioner Chua asked Chief Zamora to clarify the process if issuance of CUP for this type of application for fellow commissioners, applicants and public.

Vice Chair, noting the hours of operation proposed, asked if there is a celebration out side of those hours, would applicant need a special events permit. Ms. Kumar noted that is correct, applicant would have to specify details of event and hour of operation.

Commissioner Alcorn asked if project is approved tonight, the building cannot be

occupied until the applicant addresses the standards that are recommended by City staff. Mr. Zamora noted that is correct. Mr. Thomas re-clarifies the CUP process.

Commissioner Morris stated does not feel comfortable until seeing results of risk assessment.

Chair Mandal invited members of the audience to address the commission.

Barbeer Sandhu, San Jose College Trustee, understands the concern the commissioners and thanks for all the good questions. Mr. Sandhu said they know they have a responsibility for the safety of the congregation and will work with the City.

Amandeep, San Jose resident, Sikh Temple said that he's been a part of the congregation, has seen it grow and everything they do for the community. Safety is their concern to and the Sih Temple have a lot of positive impact in the community.

Paul Singh, resident of Milpitas, said that the Sikh people are a fiber of this community and will do what the City asked them to do to have the temple in Milpitas.

Rahj Manjahal, shared that the Sikh community isn't only taking care of their own, they believe in humanity; questions why do they need to wait for the risk assessment to receive approval for tonight.

Pri Sandhu, City of Richmond, spoke on the behalf of the community and shared they will do everything that is required to do this passage.

Motion to close the public hearing.

Motion/Second: Vice Chair Ciardella/Commissioner Alcorn

AYES: 7

NOES: 0

ABSTAIN: 0

Commissioner Chua recommended to additional conditions to do submit report after the risk assessment has been done, formalize a written statement regarding noise level, and also include security cameras and lighting, as appropriate.

Planning Director Thomas clarified that additional surveillance is covered in existing Condition #19, noise is addressed in Condition #22 and for the exterior lighting, language suggested: *The permittee shall prepare a photometric lighting study for the subject site to include all the exterior areas surrounding the proposed use. Based on the results of the study, permittee will provide a lighting plan for the site to address safety issues for review and approval by the Planning Director:* and, trash enclosure language: *The permittee shall upgrate the trash enclosure as needed to comply with current design standards for trash enclosures of the City of Milpitas;* and, hours of operation language: *The hours of operations of the use shall be either 9am-2pm, seven days a week or 8am-5pm, seven days a week.*

Motion to consider and adopt Resolution No. 19-010 approving Conditional Use

Permit No. UP18-0006, subject to the Conditions of Approval as amended.

Motion/Second: Commissioner Chua/Commissioner Morris

AYES: 7

NOES: 0

ABSTAIN: 0

IX-1 LEGOLAND DISCOVERY CENTER – 870 GREAT MALL DRIVE – P-

UP19-0003: A request for a Conditional Use Permit to allow the operation of a 31,358 square foot recreation and entertainment facility within an existing commercial space in the General Commercial (C2) zone. The project is categorically exempt from further CEQA review pursuant to Section 15301 (Existing Facilities), and, as a separate and independent basis, Section 15183 (Projects Consist with a Community Plan or Zoning) of the CEQA Guidelines.

Project Planner Lillian Hua showed a presentation and discussed the project.

Vice Chair Ciardella asked how will the Applicant prevent parents from just leaving their children to play. Ms. Hua said that the Applicant is present and can discuss security monitoring. Mr. Ciardella asked about the operating hours. Ms. Hua said their hours would mirror the mall's hours.

Commissioner Tao asked what the size of the exterior signage would be. Ms. Hua said there are no dimensions noted in the package and it is not being considered at this time but will later come to Planning Commission for review. Mr. Tao mentioned he does not want the colors (yellow) to become signage. Ms. Hua said that Staff would have to make sure our sign code matches with the definition of the square footage. Mr. Tao asked what is the max amount of kids to be accompanied per adult. Ms. Hua said that the Applicant does not have a ratio but they can elaborate when they come to podium to speak.

Commissioner Alcorn asked is landlord here. Ms. Hua shared there is a representative from Great Mall. Mr. Alcorn asked if there are any measures being taken in regards to parking and flow of traffic. Ms. Hua shared that the Traffic Engineering department did review the plans and did not provide any conditions of approval related to traffic mitigations; and per the Great Mall staff, the parking garage across from Sears is under-utilized.

Commissioner Chuan asked if any parking problems be taken into account once BART is up and running. Ms. Hua noted that when reviewing conditional use permits, only the project site is taken into account; also sharing that the Great Mall site (for all its uses) has adequately satisfied their parking requirements per the municipal code. Mr. Thomas added that the City is planning to do traffic studies around the BART station once it opens; and, BART will have 1100 parking space garage plus an additional 300 space surface parking lot.

Commissioner Morris asked what is the City expecting in regards to security for Legoland. Ms. Hua said that is not a part of the conditions of approval but could be something the commissioners add and the applicant is here to share their security measures at other sites.

Commissioner Chua said she believes she remembers adding a condition regarding truancy and safety when approving PlayLive Nation at Great Mall. Ms. Hua said

they did conditional PlayLive Nation for truancy, that minors could not be there during school hours but is unaware of their security measures.

Chair Mandal asked where are there other Lego Discovery Centers. Ms. Hua said Texas and Minneapolis (Mall of America). Mr. Mandal asked about the rides and shared he is excited about it.

Chair Mandal invited applicant to speak.

David Johnson, Global New Business Director, Merlin Entertainment (parent company of Legoland Discovery Center) discussed the project and shared information about other Legoland Discovery Centers.

Commissioner Alcorn asked what is their “check in” system. Mr. Johnson stated there will be only one entrance and one exit, wristbands will be purchased and guests will get on a ride that steers through animated rooms that the guests will shoot at (an interactive game) while making it’s way into the discovery center; the wristbands do not monitor if a child belongs to an adult. Mr. Alcorn asked if a suspicious adult could walk into the venue. Mr. Johnson said you cannot just walk into discovery center, ticket holders would need to take the ride in.

Commissioner Chua said that having a paying adult with a child would address their concerns regarding truancy and safety. Ms. Chua asked if there is age limits, a minimum age to go in. Mr. Johnson said no; they do not charge customers under two years old. Ms. Chua asked for the projection for grand opening. Mr. Johnson said a quarter into 2020; the design and choice of famous landmarks in the Bay Area will be built out of approximately 2 million Lego bricks. Ms. Chua thanks Mr. Johnson for choosing MilpitasLand for LegoLand Discovery Center.

Commissioner Tao asked applicant to describe the cinema features. Mr. Johnson said it is a 4d movie theatre, that has motion of wind and rain that coincides with (4) specific Lego movies. Mr. Tao asked what is the seating capacity. Mr. Johnson would like to defer that question to his architect. Mr. Tao asked what is the average stay time at the Legoland Discovery Center. Mr. Johnson said 2-3 hours. Mr. Tao asked about their cleaning protocols. Mr. Johnson stated that healthy, safety and hygiene is absolutely critical to the livelihood of their attractions; though not knowing their cleaning process; Legoland Discovery Centers uphold the highest standards of cleanliness. Mr. Tao asked about age-appropriate urinal/toilets heights; what percentage will be height appropriate. Mr. Johnson deferred that question to his architect.

Vice Chair Ciardella asked for Great Mall Representative to come to podium. Mr. Ciardella shared that he excited about Legoland but is disappointed in Great Mall for getting rid of historical items displayed by Historical Society. Mr. Ciardella asked Great Mall if they would be interested in bringing it back. Great Mall Representative said they are maintaining the Ford part and other historical items will be moved within the mall into display cases; the Historical Society is working with the City on locating areas within the City to display other historical items that the Great Mall does not have room for. Mr. Ciardella asked if Legoland would be interested in giving up their office space to display items for the Historical Society. Mr. Johnson said unfortunately from their point of view, they need a particular amount of space make the operation work.

Commissioner Chuan shared that he excited but would like to know more about

safety of ride. Mr. Johnson stated that these manufactured rides that are operated all over the world and they comply with the safety standards to ensure the safety of their guests. Mr. Chuan asked Great Mall representative about parking. She stated that the parking garage is currently under utilized, they have parking agreements with Stratford and hire a third party to help direct flow of traffic during the holidays. She also shared that the current construction is Tesla charging station that should be wrapped up in a couple of months.

Commissioner Morris asked about clarifications in regards the buffer area (ride into the discovery centers). Ms. Morris asked if the Legoland Discovery Center would be willing to make a donation toward the preservation and relocation of the Historical Society. Mr. Thomas interjected stating the under no obligation, the Great Mall housed the historical items for many years. Mr. Thomas shared that he circulated a memo to the Planning Commissioners in regards to the City working with the Historical Society to help find areas in the City to house and display items; continuing that the Historical Society display has nothing to do with the Legoland application and it would be inappropriate to ask for donations.

Vice Chair Ciardella said he is very disappointed.

Chair Mandal invited members of the audience to address the commission.

Motion to close the public hearing.

Motion/Second: Commissioner Morris/Acorn

AYES: 7

NOES: 0

Vice Chair Ciardella would like to add a conditional to remove the office area and make room for the Historical Society. Mr. Alcorn said referenced the Planning Director's comments about making arrangements with the Historical Society to find areas within the City to showcase historical items. Ms. Garner shared a list of venues in mind for the exhibits; once a plan is agreed upon between City and Historical Society, it will be reviewed and approved by City Manager. Mr. Alcorn just would recommend that the exhibits be in high traffic areas.

City Attorney Zambrano recommends we approve Resolution as is. Mr. Thomas recommends to add the condition language: **That City Staff will continue to work with the management of the Great Mall and the Milpitas Historical Society to find appropriate display areas for historical items both within the Great Mall and other locations per a plan be determined by the City of Milpitas and the Milpitas Historical Society.* City Attorney Zambrano recommended that additional condition be taken as a separate motion since it is not immediately related to the project.

Motion to consider and adopt Resolution No. 19-014 approving Conditional Use Permit No. P-UP19-0003, subject to the attached Conditions of Approval.

Motion/Second: Commissioner Chuan/Commissioner Alcorn

AYES: 7

NOES: 0

ABSTAIN: 0

**Motion to consider additional action in regards to Conditional Use Permit No. P-UP19-0003, subject to the Conditions of Approval as stated by Planning Director.*

Motion/Second: Commissioner Alcorn/Vice Chair Ciardella

AYES: 6

NOES: 0

ABSTAIN: 1 (Tao)

IX-3 CAPITAL IMPROVEMENT PROGRAM (CIP) GENERAL PLAN CONFORMITY FINDING: Annual review of the City's proposed 2019-2024 CIP Annual Report and finding of conformance with the Milpitas General Plan in accordance to California Government Code Section 65401. This project is exempt from environmental review under CEQA pursuant to Section 15061(b)(3) (Not a Project).

Engineering Director, Steve Erickson and Capital Improvements Projects Manager, Woojae Kim did a presentation and discussed the project.

Throughout presentation Mr. Erickson, Mr. Kim and Ms. Kantak answered commissioners questions related to public safety around BART station, recycled water, development of town center, mixed used projects, etc.

Chair Mandal invited members of the audience to address the commission.

Motion to close the public hearing.

Motion/Second: Commissioner Alcorn/Commissioner Tao

AYES: 7

NOES: 0

Motion to consider and adopt Resolution No. 19-015 finding the 2019-2024 Capital Improvement Program in conformance with the General Plan.

Motion/Second: Commissioner Chua/ Commissioner Tao

AYES: 7

NOES: 0

XI. NEW BUSINESS

NO ITEMS

XI. ADJOURNMENT

The meeting was adjourned at 11:04 PM.

Motion to adjourn to the next meeting.

Motion/Second: Commissioner Mohsin/Commissioner Alcorn

AYES: 7

NOES: 0

*Meeting Minutes submitted by
Planning Commission Secretary Elizabeth Medina*